

IN THE U.S. PATENT AND TRADEMARK OFFICE

Inventor(s): Ho et al.
Serial No.: 09/385,795
Filed: August 30, 1999

Group Art Unit: 3713
Examiner: John Rovnak

Title: A Learning Method and System That Considers A Student's Concentration Level
Any Docket: 110 CONT1

CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8
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By Colina Tong
Name: Colina Tong

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OFFICE OF PETITIONS
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PETITION TO REVIVE ABANDONED APPLICATION UNDER 37 CFR 1.137(b)

Assistant Commissioner for Patents

Box DAC

Washington, D.C. 20231

Sir:

Applicants received an Office Action mailed on May 24, 2001, in the above-identified patent application, indicating that Applicants' reply to the Office action of May 10, 2000 was after the expiration of the period for reply. The application was hence abandoned. The Examiner also kindly advised Applicants that the abandonment may be overcome by filing a petition to revive under 37 CFR 1.137(b) if Applicants' failure to reply was unintentional. Following the requirements under 37 CFR 1.137(b) and as set forth in the Office Action, Applicants:

- (a) Have enclosed the required reply, which has previously been filed, and which includes a terminal disclaimer.
- (b) Have enclosed a check of \$1240.00, the petition fee as set forth in 37 CFR 1.17(m).
- (c) Have enclosed a notice of loss of entitlement of small entity.

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Applicants entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.17(b) was unintentional. Applicants were confused by 37 CFR 1.17, which states that one can extend for five months by paying the applicable fee, namely:

<u>Fee (Small Entity)</u>		<u>Extended Month</u>
_____	\$55.00	First
_____	\$190.00	Second
_____	\$435.00	Third
_____	\$695.00	Fourth
_____	\$925.00	Fifth

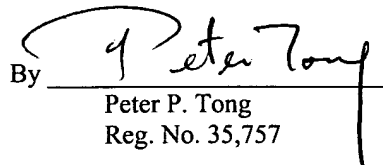
Applicants misread the rule and presumed that by paying the applicable amount, one could respond up to five months after the three months shortened statutory period. Thus Applicants responded to the office action, paid the late fee of four months, and further authorized the Commissioner to charge any underpayment associated with that communication to Deposit Account No. 500727.

Applicants were surprised to receive the abandonment notification. On June 25, 2001, Examiner Rovnak kindly and expediently clarified the issue. Examiner Rovnak explained that the fourth and the fifth months are for restriction purposes. In a typical restriction, Examiner gives Applicants one month to response, with a possibility of five months extension by paying the appropriate fee. The fourth and fifth months are not for normal office actions, but are for responding to restrictions. Examiner Rovnak's clear understanding of basic concepts in patent laws is particularly helpful, and is greatly appreciated.

Applicants delay in filing the required reply from the due date was brought on by Applicants' misunderstanding of rule 1.17(b), and was unintentional.

The Commissioner is hereby authorized to charge underpayment of any fees, associated with this communication or credit any overpayment to Deposit Account Number 500727. A duplicate copy of this petition is enclosed.

Respectfully submitted,
Ho and Tong

By 
Peter P. Tong
Reg. No. 35,757

Dated:
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